

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.1099 OF 2016

Tukaram S/o Sukhdeo Chavan

..VS..

The State of Maharashtra, through Police Station Officer, Police Station
Mangrulpir, Taluka Mangrulpir, District Washim

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri A.V. Band, counsel for the applicant.
Shri Damle, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 14, 2017.

This is an application for bail by accused involved in Crime No.368 of 2016 registered under Section 307 read with Section 34 of the Indian Penal Code.

Heard learned counsel for applicant and learned Additional Public Prosecutor for non-applicant/State.

It is submitted that applicant is falsely involved as even according to the contents of the report, complainant after being administered with poison had walked upto four kilometers to Dhanora from the spot and, thereafter, proceeded in auto-rickshaw and visited Mangrulpir Police Station and, therefore, it is submitted that from the contents of report itself it cannot be said that complainant was administered any poisonous

substance. Had she consumed any such substance, it was impossible for complainant to walk or travel by auto-rickshaw as aforesaid. It is further contended that co-accused, who are named in the report, are protected by *interim* bail from their arrest and since investigation is complete and charge-sheet is filed, application is prayed to be allowed as even according to the M.L.C. report, no stomach wash of complainant is admittedly preserved for forwarding to F.S.L. It is thus prayed that application be allowed.

Learned Additional Public Prosecutor has opposed the application as per its reply on record and has submitted that from the M.L.C. case papers though stomach wash is not preserved, from the injury report it is established that deceased had sustained injuries on her person which established that some poisonous substance was administered forcibly. It is, therefore, prayed that the application be rejected.

Perusal of the report lodged by complainant, while in Ozone Hospital at Akola, dated 15.11.2016 reveals that on 11.11.2016 at around 12:00 noon while was present at public Well, her father-in-law, mother-in-law, and wife of brother of applicant were present where quarrel arose between her and applicant during the course of which they said that by administering endrin to complainant she could be killed. Considering the above stated contents of report,

it is material to note that from its contents presence of in-laws of complainant as well as Malabai, wife of brother of applicant is found near the public Well where applicant along with above named persons entered into quarrel.

From further contents of report, it is noted that by saying so applicant ran from his field towards his hut and arrived with bottle containing insecticide endrin which was administered to her by applicant and co-accused. She has further stated that after they ran away from the spot, she also ran away and reached Dhanora and from there occupied an auto-rickshaw and went to Mangrulpir Police Station. Admittedly, no statement of auto-rickshaw driver nor its occupants, who were stated in report, is recorded.

On perusal of documents made available by learned Additional Public Prosecutor it is found that complainant was initially taken to the Public Health Centre at Mangrulpir where as per the report her statement is recorded. However, it appears that the said statement is not on record. Report is dated 15.11.2016 given by complainant while admitted in Ozone Hospital. There is nothing to establish as to what was the report lodge by complainant on the date of incident that is 11.11.2016. From the report it is noted that at Mangrulpir she was provided some medical treatment and was forwarded to the Government

hospital at Washim where her husband arrived and took her for further treatment at Ozone Hospital at Akola where she obtained medical treatment.

Perusal of medical papers of Public Health Centre at Mangrulpir reveals that she was admitted in the said hospital on 11.11.2016 at 4:15 p.m. and was provided medical treatment by giving stomach wash. However, as per the documents, stomach wash is not preserved and she was referred for further treatment at Akola. In a query made to learned Additional Public Prosecutor it is specifically informed that no stomach wash is preserved. In that view of the matter, there is nothing on record to establish what was the substance if at all administered to complainant.

Though according learned Additional Public Prosecutor injuries are found on the person of complainant, it is material to note that certificate is dated 19.11.2016 and as per this certificate abrasions are found on the cheek of complainant which are eight to ten days old and are simple in nature.

Having considered facts as aforesaid and as according to the report, complainant after having allegedly administered some substance had ran from the spot from village Januna to village Dhanora and thereafter by auto-rickshaw to Mangrulpir Police Station which distance as per F.I.R. of seven kilometers, doubts the truthfulness of complainant which is further

substantiated from the medical papers as aforesaid.

In the circumstances and as charge-sheet is filed, the application is allowed as per order below:

The applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

While on bail, applicant shall mark presence with Mangrulpir Police Station once in three months on first day of each such month.

The applicant shall submit proof of his residence with the investigating officer and shall update the same in the event of change in future.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 15/2/2017